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**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF UTAH**

JIM CURRY; KISHONA SMITH; AUTUMN  
MORGAN; MONIQUA WALKER; STUART  
ROGOFF; ALYSSA MOSER; and THOMAS  
MONACO, individually and on behalf of all others  
similarly situated,

Plaintiffs,

v.

MRS. FIELDS GIFTS, INC.,

Defendant.

**ANSWER**

Case No. 2:22-cv-00651-JNP-DBP

Hon. Jill N. Parrish

Magistrate Judge Dustin B. Pead

For its Answer to Plaintiffs' Complaint, Defendant Mrs. Fields Gifts, LLC ("Mrs. Fields"), admits, denies, states, and alleges as follows:

**FIRST DEFENSE**

1. Denies the allegations in Paragraph 1.
2. Paragraph 2 refers to a written third-party document that speaks for itself. Defendant denies the allegations of Paragraph 2 to the extent they are inconsistent therewith, and denies the remaining allegations in Paragraph 2.
3. Defendant denies the allegations in Paragraph 3, except that it admits that the quoted language appears in Utah Code Ann. § 13-37-202(1).
4. Defendant admits that Plaintiffs have commenced an action against Mrs. Fields but denies the allegations therein.
5. Denies the allegations in Paragraph 5.
6. Denies the allegations in Paragraph 6.
7. Denies the allegations in Paragraph 7.
8. Defendant states that it lacks knowledge or information sufficient to form a belief as to the truth of the allegations of the first sentence of Paragraph 8. Defendant denies the remaining allegations in Paragraph 8.
9. Defendant states that it lacks knowledge or information sufficient to form a belief as to the truth of the allegations of the first sentence of Paragraph 9.
10. Denies the allegations in Paragraph 10.
11. Denies the allegations in Paragraph 11.
12. Denies the allegations in Paragraph 12.
13. Defendant states that it lacks knowledge or information sufficient to form a belief as to the truth of the allegations of the first sentence of Paragraph 13.

14. Denies the allegations in Paragraph 14.

15. Denies the allegations in Paragraph 15.

16. Denies the allegations in Paragraph 16.

17. Denies the allegations in Paragraph 17.

18. Defendant states that it lacks knowledge or information sufficient to form a belief as to the truth of the allegations of the first sentence of Paragraph 18.

19. Denies the allegations in Paragraph 19.

20. Denies the allegations in Paragraph 20.

21. Denies the allegations in Paragraph 21.

22. Denies the allegations in Paragraph 22.

23. Defendant states that it lacks knowledge or information sufficient to form a belief as to the truth of the allegations of the first sentence of Paragraph 23.

24. Denies the allegations in Paragraph 24.

25. Denies the allegations in Paragraph 25.

26. Denies the allegations in Paragraph 26.

27. Denies the allegations in Paragraph 27.

28. Defendant states that it lacks knowledge or information sufficient to form a belief as to the truth of the allegations of the first sentence of Paragraph 28.

29. Denies the allegations in Paragraph 29.

30. Denies the allegations in Paragraph 30.

31. Denies the allegations in Paragraph 31.

32. Denies the allegations in Paragraph 32.

33. Defendant states that it lacks knowledge or information sufficient to form a belief

as to the truth of the allegations of the first sentence of Paragraph 33.

34. Denies the allegations in Paragraph 34.

35. Denies the allegations in Paragraph 35.

36. Denies the allegations in Paragraph 36.

37. Denies the allegations in Paragraph 37.

38. Defendant states that it lacks knowledge or information sufficient to form a belief

as to the truth of the allegations of the first sentence of Paragraph 38.

39. Denies the allegations in Paragraph 39.

40. Denies the allegations in Paragraph 40.

41. Denies the allegations in Paragraph 41.

42. Denies the allegations in Paragraph 42.

43. Defendant states that it lacks knowledge or information sufficient to form a belief

as to the truth of the allegations of the first sentence of Paragraph 43.

44. Denies the allegations in Paragraph 44.

45. Denies the allegations in Paragraph 45.

46. Denies the allegations in Paragraph 46.

47. Denies the allegations in Paragraph 47.

48. Defendant states that it lacks knowledge or information sufficient to form a belief

as to the truth of the allegations of the first sentence of Paragraph 48.

49. Denies the allegations in Paragraph 49.

50. Denies the allegations in Paragraph 50.

51. Denies the allegations in Paragraph 51.

52. Denies the allegations in Paragraph 52.

53. Defendant states that it lacks knowledge or information sufficient to form a belief as to the truth of the allegations of the first sentence of Paragraph 53.

54. Denies the allegations in Paragraph 54.

55. Denies the allegations in Paragraph 55.

56. Denies the allegations in Paragraph 56.

57. Denies the allegations in Paragraph 57.

58. Defendant states that it lacks knowledge or information sufficient to form a belief as to the truth of the allegations of the first sentence of Paragraph 58.

59. Denies the allegations in Paragraph 59.

60. Denies the allegations in Paragraph 60.

61. Denies the allegations in Paragraph 61.

62. Denies the allegations in Paragraph 62.

63. Defendant states that it lacks knowledge or information sufficient to form a belief as to the truth of the allegations of the first sentence of Paragraph 63.

64. Denies the allegations in Paragraph 64.

65. Denies the allegations in Paragraph 65.

66. Denies the allegations in Paragraph 66.

67. Denies the allegations in Paragraph 67.

68. Defendant states that it lacks knowledge or information sufficient to form a belief as to the truth of the allegations of the first sentence of Paragraph 68.

69. Denies the allegations in Paragraph 69.

70. Denies the allegations in Paragraph 70.

71. Denies the allegations in Paragraph 71.

72. Denies the allegations in Paragraph 72.

73. Defendant states that it lacks knowledge or information sufficient to form a belief as to the truth of the allegations of the first sentence of Paragraph 73.

74. Denies the allegations in Paragraph 74.

75. Denies the allegations in Paragraph 75.

76. Denies the allegations in Paragraph 76.

77. Denies the allegations in Paragraph 77.

78. Defendant states that it lacks knowledge or information sufficient to form a belief as to the truth of the allegations of the first sentence of Paragraph 78.

79. Denies the allegations in Paragraph 79.

80. Denies the allegations in Paragraph 80.

81. Denies the allegations in Paragraph 81.

82. Denies the allegations in Paragraph 82.

83. Defendant admits the allegations of the first sentence of Paragraph 83.

84. Denies the allegations in Paragraph 84.

85. The allegations of paragraph 85 of the Complaint set forth a legal conclusion to which no response is required. To the extent a response is required, denied.

86. Defendant admits this Court has personal jurisdiction over Mrs. Fields. Defendant denies the remaining allegations in Paragraph 86.

87. Defendant denies the allegations in Paragraph 87, except that it admits that the quoted language appears in Utah Code Ann. § 13-37-202.

88. Defendant denies the allegations in Paragraph 88, except that it admits that the quoted language appears in Utah Code Ann. § 13-37-201.

89. Defendant denies the allegations in Paragraph 89, except that it admits that the quoted language appears in Utah Code Ann. § 13-37-201.

90. Defendant denies the allegations in Paragraph 90, except that it admits that the quoted language appears in Utah Code Ann. § 13-37-201.

91. Defendant denies the allegations in Paragraph 21, except that it admits that the quoted language appears in Utah Code Ann. § 13-37-201.

92. Defendant denies the allegations in Paragraph 92, except that it admits that the quoted language appears in Utah Code Ann. § 13-37-201.

93. Defendant denies the allegations in Paragraph 93, except that it admits that the quoted language appears in Utah Code Ann. § 13-37-201.

94. Defendant denies the allegations in Paragraph 94, except that it admits that the quoted language appears in Utah Code Ann. § 13-37-203.

95. Denies the allegations in Paragraph 95.

96. Paragraph 96 refers to a written document that speaks for itself. Defendant denies the allegations of Paragraph 96 to the extent they are inconsistent therewith, and denies the remaining allegations in Paragraph 96.

97. Defendant states that it lacks knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 97, and therefore denies same.

98. Paragraph 98 refers to a written document that speaks for itself. Defendant denies the allegations of Paragraph 98 to the extent they are inconsistent therewith, and denies the remaining allegations in Paragraph 98.

99. Paragraph 99 refers to a written document that speaks for itself. Defendant denies the allegations of Paragraph 99 to the extent they are inconsistent therewith, and denies the

remaining allegations in Paragraph 99.

100. Paragraph 100 refers to a written document that speaks for itself. Defendant denies the allegations of Paragraph 100 to the extent they are inconsistent therewith, and denies the remaining allegations in Paragraph 100.

101. Paragraph 101 refers to a written document that speaks for itself. Defendant denies the allegations of Paragraph 101 to the extent they are inconsistent therewith, and denies the remaining allegations in Paragraph 101.

102. Paragraph 102 refers to a written document that speaks for itself. Defendant denies the allegations of Paragraph 102 to the extent they are inconsistent therewith, and denies the remaining allegations in Paragraph 102.

103. Paragraph 103 refers to a written document that speaks for itself. Defendant denies the allegations of Paragraph 103 to the extent they are inconsistent therewith, and denies the remaining allegations in Paragraph 103.

104. Paragraph 104 refers to a written document that speaks for itself. Defendant denies the allegations of Paragraph 104 to the extent they are inconsistent therewith, and denies the remaining allegations in Paragraph 104.

105. Paragraph 105 refers to a written document that speaks for itself. Defendant denies the allegations of Paragraph 105 to the extent they are inconsistent therewith, and denies the remaining allegations in Paragraph 105.

106. Paragraph 106 refers to a written document that speaks for itself. Defendant denies the allegations of Paragraph 106 to the extent they are inconsistent therewith, and denies the remaining allegations in Paragraph 106.

107. Denies the allegations in Paragraph 107 to the extent the allegations are about Mrs.



Fields in particular and otherwise states that it lacks knowledge or information sufficient to form a belief as to the truth of the allegations in the remainder of Paragraph 107.

108. Defendant states that it lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 108 and therefore denies them.

109. Defendant states that it lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 109 and therefore denies them.

110. Paragraph 110 refers to a written document that speaks for itself. Defendant denies the allegations of Paragraph 110 to the extent they are inconsistent therewith, and denies the remaining allegations in Paragraph 110.

111. Defendant states that it lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 111 and therefore denies them.

112. Paragraph 112 refers to a written document that speaks for itself. Defendant denies the allegations of Paragraph 112 to the extent they are inconsistent therewith, and denies the remaining allegations in Paragraph 112.

113. Paragraph 113 refers to a written document that speaks for itself. Defendant denies the allegations of Paragraph 113 to the extent they are inconsistent therewith, and denies the remaining allegations in Paragraph 113.

114. Paragraph 114 refers to a written document that speaks for itself. Defendant denies the allegations of Paragraph 114 to the extent they are inconsistent therewith, and denies the remaining allegations in Paragraph 114.

115. Denies the allegations in Paragraph 115.

116. Denies the allegations in Paragraph 116.

117. Denies the allegations in Paragraph 117.

118. Denies the allegations in Paragraph 118.

119. Denies the allegations in Paragraph 119.

120. Denies the allegations in Paragraph 120.

121. Defendant admits the allegations of the first sentence of Paragraph 121. Defendant denies the remaining allegations in Paragraph 121.

122. Denies the allegations in Paragraph 122.

123. Denies the allegations in Paragraph 123.

124. Defendant admits that Plaintiffs seek to represent a class action; denies the propriety of a class action including because Utah Code § 13-27-203 states that “[a] person may not bring a class action under this chapter,” and denies the truth of the remaining allegations in Paragraph 124.

125. Denies the allegations in Paragraph 125.

126. Denies the allegations in Paragraph 126.

127. Denies the allegations in Paragraph 127.

128. Denies the allegations in Paragraph 128.

129. Denies the allegations in Paragraph 129.

#### **CAUSE OF ACTION**

#### **Violation of Utah’s Notice of Intent to Sell Nonpublic Personal Information Act (Utah Code Ann. § 13-37)**

130. Mrs. Fields incorporates all preceding paragraphs of this Answer as though fully set forth herein

131. Defendant admits that Plaintiffs purport to bring this action on behalf of themselves and a Class, but denies the propriety thereof, including because Utah Code § 13-27-203 states that “[a] person may not bring a class action under this chapter.”

132. Defendant admits that Mrs. Fields Gifts, Inc., maintains its headquarters in Utah.

Defendant denies the remaining allegations of Paragraph 132.

133. Denies the allegations in Paragraph 133.

134. Denies the allegations in Paragraph 134.

135. Denies the allegations in Paragraph 135.

136. Denies the allegations in Paragraph 136.

137. Denies the allegations in Paragraph 137.

138. Denies the allegations in Paragraph 138.

139. Denies the allegations in Paragraph 139.

140. Denies the allegations in Paragraph 140.

141. Denies the allegations in Paragraph 141.

142. Denies the allegations in Paragraph 142.

143. Denies the allegations in Paragraph 143.

144. Denies the allegations in Paragraph 144.

145. Paragraph 145 states a legal conclusion to which no response is necessary. To the extent a response is deemed necessary, denies the allegations in Paragraph 145.

146. Denies the allegations in Paragraph 146.

147. Defendant admits that Plaintiffs purport to seek the relief identified in Paragraph 147, but denies that Plaintiffs are entitled to the relief they seek or any relief whatsoever.

Mrs. Fields denies each and every allegation in Plaintiffs' Complaint unless expressly admitted, including denying that Plaintiffs are entitled to the relief requested in the Prayer for Relief or any relief whatsoever

## **SECOND DEFENSE**

Plaintiffs' Complaint fails to state a claim upon which relief may be granted.

**THIRD DEFENSE**

Plaintiffs' claims, in whole or in part, are barred by the statute of limitations imposed by Utah Code § 78B-2-305(4) which establishes a one year statute of limitations.

**FOURTH DEFENSE**

To the extent any Plaintiffs reside in the State of Utah, this Court lacks jurisdiction under 28 USC § 1332.

**FIFTH DEFENSE**

Under Utah Code Ann. §13-37-203, this case may not be maintained as a class action.

**SIXTH DEFENSE**

To the extent any of the alleged transactions were fulfilled outside the State of Utah, the Plaintiffs are foreclosed from asserting a claim in this Action

**SEVENTH DEFENSE**

Mrs. Fields did not disclose any "nonpublic information" as defined by Utah Code § 13- 37-102(5).

**EIGHTH DEFENSE**

Utah Code § 13-37-203 does not state a cause of action for non-Utah residents.

**NINTH DEFENSE**

Utah Code § 13-37-203 does not state a cause of action for transactions initiated or completed outside the State of Utah.

**TENTH DEFENSE**

To the extent that a class is certified, aggregated penalties violate the Due Process Clause of the Fourteenth Amendment of the United State Constitution's prohibition on excessive fines.

**ELEVENTH DEFENSE**

The named Plaintiffs' lack standing to pursue their claims in Federal Court because they lack Article III standing, and/or there is a lack of causal relationship between the alleged harm and any conduct by Mrs. Fields.

**TWELFTH DEFENSE**

The named Plaintiffs' lack statutory standing to pursue their claims to the extent they were not purchasers of Mrs. Fields' goods.

**THIRTEENTH DEFENSE**

All named Plaintiffs were provided Notice under the statute, and to the extent Plaintiffs did not read the Notice, Plaintiffs assumed the risk.

**FOURTEENTH DEFENSE**

The Statute Violates the First Amendment of the United States Constitution and/or is unconstitutionally vague.

**FIFTEENTH DEFENSE**

To the extent that Plaintiffs were not purchasers and/or were only recipients of Mrs. Fields' goods, they lack privity with Mrs. Fields.

**SIXTEENTH DEFENSE**

Mrs. Fields Gifts, LLC (previously Mrs. Fields Gifts, Inc.) is not the proper defendant because from 2020 to the Present it has had no role in the alleged conduct.

Mrs. Fields reserves the right to assert additional defenses as they become known during investigation and defense of Plaintiffs' claims.

WHEREFORE, United requests that judgment be entered as follows:

- A. Dismissing Plaintiffs' Complaint with prejudice;
- B. For Mrs. Fields's reasonable costs and attorney fees herein; and
- C. For such other and further relief as the Court deems just and equitable.

Dated: September 17, 2024

Respectfully submitted,

[Signature Block]

**CERTIFICATE OF SERVICE**

I hereby certified that a copy of the foregoing **DEFENDANT MRS. FIELDS GIFTS, LLC'S ANSWER TO FIRST AMENDED COMPLAINT** was filed this 17th day of September, 2024, via the Court's electronic system, which served all counsel of record.

/s/